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Dec 08 2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,676	08/31/2001	Daniel Keele Burgin	FTNL-005/000US	8505
22903	7590	07/08/2005	EXAMINER	
COOLEY GODWARD LLP			CHRISTMAN, KATHLEEN M	
ATTN: PATENT GROUP			ART UNIT	PAPER NUMBER
11951 FREEDOM DRIVE, SUITE 1700			3713	
ONE FREEDOM SQUARE- RESTON TOWN CENTER				
RESTON, VA 20190-5061				
DATE MAILED: 07/08/2005				

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*Rept to final on*  
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EOL: 08/14/2006

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*file Notice of Appeal*  
ENTERED  
DUE: 08/06/2005  
EOL: 08/14/2006

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/944,676	BURGIN ET AL.
	Examiner Kathleen M. Christman	Art Unit 3713

*— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 26 April 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 37-53 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 37-53 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date, _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

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**DETAILED ACTION**

In response to the amendment filed 12/07/2004, claims 24-30 have been cancelled; claims 37-44 and newly added claims 45-53 are pending.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 45-53 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

In the present case, the claimed method fails to produce a tangible result. The claimed method steps, of the independent claims, results in "initiating an automated help session"; this initiation step fails to show any practical application of the method. Although it is asserted that the help session may be useful in providing user support, the method does not show a tangible result. A result is not tangible when the claims involve no more than the manipulation of an abstract idea. The claimed method merely manipulates data without actually applying the manipulated data in a real-world result. Dependent claims 46-52 fail to correct this issue as they do not add any steps, which incorporate the production of a tangible result.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 53 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 53 recites the limitation "the consistent page domain security requirement". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1986), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 37-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt et al (US 2002/0130895 A1) in view of Jawahar et al (US 6256620 B1).** Brandt teaches a method for providing help/support information to user including the steps of: passing a navigation event (the help signal paragraph 29) from a first frame (web page) originating from a first domain (the web file) to a second frame (the help window, paragraph 13) originating from a second domain (the instructions in the computer memory), see paragraphs 36 and 37; determining the present navigation location within the first frame using the navigation event and initiating an automated help session in the second frame, the automated help session corresponding to the determined present navigation location (paragraph 31), as in claims 37 and 45.. Collecting data from the first fame that was collect from the user in the first frame and passing the received information to the second frame (claims 39, 42, 47 and 50) is shown in the

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tracking of the user actions in the web page, see paragraph 45. The web page of Brandt is by definition a content frame, as per claims 40 and 48.

Brandt fails to specifically teach: displaying the first frame and the second frame in a single web page at the user computer (newly added to claims 37, 45 and 53); or that the browser is subject to the consistent page domain security requirement (newly added to claim 53); initiation a live help session and passing the data from the automated help session to the live help session (claims 38 and 46); passing a command from the automated support session to the first frame (claims 41 and 49); receiving data that was collected in the live help session and passing the data to the first frame (claims 43 and 51); receiving data collected from the user in the second frame and passing the data to the live help session (claims 44 and 52); and that the user's computer, first Internet domain, and second Internet domain are separate (claim 53 and newly added to claims 37 and 45).

Jawahar et al teaches an online system for providing live support to a end-user. The system teaches collecting all interaction of a user on a web page (content frame) and passing this information to the live support session in at least col. 12: 65 - col. 13:23. These features are substantially similar to the data collection and passing steps not taught by Brandt. The ability for the help session to send information to the user's computer, i.e. passing information from the help session to the content frame, is shown in col. 7: 37-40. The Jawahar et al system monitors all user interactions, which in the combination of the inventions, includes those interactions made with the automated help system of Brandt et al. Separation of each of the various features of Jawahar is taught in at least Figure 2. The use of multiple frames within a web-browser, including one indicating the help session and the other representing the browser location is shown in at least col. 12: 21-64. Jawahar also teaches the use of either the Netscape or Internet Explore browser (see col. 6: 8-21), both of which are known to operate under the consistent page domain security when implemented in a Windows environment. It would have been obvious to one of ordinary skill in the art to implement the live help session features of Jawahar et al with the automated help system of Brandt et al so as to implement a convenient means for a user encountering difficulties with a web page to contact a live representative to gain assistance (Jawahar et al, background).

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***Response to Arguments***

4. Applicant's arguments filed 04/26/2005 have been fully considered but they are not fully persuasive.

**Rejections under 35 USC §101**

The amendment to claim 37, which introduced the step of "displaying the first frame and the second frame in a single web page at the user computer" has introduced a tangible result to the method steps and the rejection has been withdrawn. However, such a feature has not been added to independent claims 45 and 53. Each of these claims still only results in an initiation step, which does not show any appreciable result. Nothing is ever displayed or any visible change made in the data.

**Rejections based upon Brandt et al**

The examiner has previously agreed with the applicant that Brandt et al fails to teach the separation of the first domain, the second domain and the user computer, in the previous discussions concerning claim 53. Brandt et al has never been relied upon for such a teaching. This feature is however, taught in Jawahar et,al in the manner shown above. Applicant has submitted no arguments addressing the Jawahar et al reference for its teaching of such, and has therefor acquiesced Jawaher et al's teaching of the feature. The newly added limitations concerning the display of the first and second frame within a single web page are addressed in the rejection above.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

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shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M. Christman whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*kc*  
Kathleen M. Christman  
June 29, 2005

*Xuan M. Thai*  
XUAN M. THAI  
SUPERVISORY PATENT EXAMINER  
*TC370D*



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,676	08/31/2001	Daniel Keele Burgin	FINL-005/00US	8505
22903	7590	03/14/2005	EXAMINER	
COOLEY GODWARD LLP			CHRISTMAN, KATHLEEN M	
ATTN: PATENT GROUP			ART UNIT	PAPER NUMBER
11951 FREEDOM DRIVE, SUITE 1700			3713	
ONE FREEDOM SQUARE- RESTON TOWN CENTER				
RESTON, VA 20190-5061			DATE MAILED: 03/14/2005	

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*Rept to OA*  
 ENTERED  
 DUE: 14 JUNE 2005  
 EOL: 14 JUNE 2005

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/944,676	BURGIN ET AL.
	Examiner Kathleen M Christman	Art Unit 3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 12/07/2004.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 37-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 37-53 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

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#### DETAILED ACTION

In response to the amendment filed 12/07/2004, claims 24-30 have been cancelled; claims 37-44 and newly added claims 45-53 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/29/2004 has been entered.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 37-53 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

#### ***Technological Arts Analysis:***

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful

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arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 37-52 fail to apply, involve, use or advance the technological arts.

Regarding claims 37 and 45, the recited steps of passing a navigation event from a first frame to a second frame; determining a navigation location, and initiating an automated help session do not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute an idea of how to initiate a help session and do not necessarily incorporate a computer system, its standard components, or any other technological components.

Claim 53 incorporates the technological arts by requiring that at least one of the steps be performed at the user computer.

*Useful, Concrete and Tangible Analysis:*

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

In the present case, the claimed method fails to produce a tangible result. The claimed method steps, of the independent claims, results in "initiating an automated help session"; this initiation step fails to show any practical application of the method. Although it is asserted that the help session may be useful in providing user support, the method does not show a tangible result. A result is not tangible when the claims involve no more than the manipulation of an abstract idea. The claimed method merely manipulates data without actually applying the manipulated data in a real-world result. Dependent claims 38-44 and 46-52 fail to correct this issue as they do not add any steps, which incorporate the production of a tangible result.

*Claim Rejections - 35 USC § 102*

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 37, 39, 40, 42, 45, 47, 48 and 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Brandt et al (US 2002/0130895 A1). Brandt teaches a method for providing help/support information to user including the steps of: passing a navigation event (the help signal paragraph 29) from a first frame (web page) originating from a first domain (the web file) to a second frame (the help window, paragraph 13) originating from a second domain (the instructions in the computer memory), see paragraphs 36 and 37; determining the present navigation location within the first frame using the navigation event and initiating an automated help session in the second frame, the automated help session corresponding to the determined present navigation location (paragraph 31), as in **claims 37 and 45**. Collecting data from the first frame that was collect from the user in the first frame and passing the received information to the second frame (**claims 39, 42, 47 and 50**) is shown in the tracking of the user actions in the web page, see paragraph 45. The web page of Brandt is by definition a content frame, as per **claims 40 and 48**.

#### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 38, 41, 43, 44, 46, 49, 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt et al (US 2002/0130895 A1) in view of Jawahar et al (US 6256620 B1).**

Brandt teaches all features of the claimed invention as shown above, but fails to specifically teach: initiation a live help session and passing the data from the automated help session to the live help session (claims 38 and 46); passing a command from the automated support session to the first frame (claims 41 and 49); receiving data that was collected in the live help session and passing the data to the first frame (claims 43 and 51); receiving data collected from the user in the second frame and passing the data to the live help session (claims 44 and 52); and that the user's computer, first Internet domain, and second Internet domain are separate (claim 53).

Jawahar et al teaches an online system for providing live support to a end-user. The system teaches collecting all interaction of a user on a web page (content frame) and passing this information to the live support session in at least col. 12: 65 - col. 13:23. These features are substantially similar to the data collection and passing steps not taught by Brandt. The ability for the help session to send information to the user's computer, i.e. passing information from the help session to the content frame, is shown in col. 7: 37-40. The Jawahar et al system monitors all user interactions, which in the combination of the inventions, includes those interactions made with the automated help system of Brandt et al. Separation of each of the various features of Jawahar is taught in at least Figure 2. It would have been obvious to one of ordinary skill in the art to implement the live help session features of Jawahar et al with the automated help system of Brandt et al so as to implement a convenient means for a user

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encountering difficulties with a web page to contact a live representative to gain assistance (Jawahar et al, background).

***Response to Arguments***

4. The previous rejections under 35 USC §112, first and second paragraph have been withdrawn in view of the remarks found in the response dated 10/14/2004.

**New claims 45-52**

Applicant has failed to mention how the new claims are believed to read over the prior art of record. The examiner believes that the arguments pertinent to the definition of "domain" are applicable to the new claims.

**Response to arguments concerning the rejection of claims under 35 USC §102**

Applicant's only arguments are directed to the feature of having a first and second domain, or Internet domain as in claims 45 and 53. The applicant has provided several definitions of the term "domain" but has not specifically defined an "internet domain". The examiner believes these terms are directed to substantially similar features. It seems to be generally agreed that the general step of loading a web-page in a first frame constitutes the information from the first domain. So the issue at hand is what constitutes the second domain of the Brandt et al system. The Brandt et al system is connected to the Internet or some other network in a conventional manner. In order for this to occur the computer must inherently be assigned an IP (Internet Protocol) address through which the system is capable of establishing bi-directional communication to the user's internet service provider (ISP) and other various server's and domain throughout the networks. The IP is assigned by the user's ISP and is within the domain of the ISP. Given this, any information retrieved through the user's computer is implicitly "originating from a second domain", and the feature of Brandt et al matches the limitations of the currently claimed invention.

***Conclusion***

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This action is made non-final in view of the new rejections made under 35 USC §101.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Kathleen M Christman  
Examiner  
Art Unit 3713



## UNITED STATES PATENT AND TRADEMARK OFFICE

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 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,676	08/31/2001	Daniel Keele Burgin	FTNL-005/00US	8505
22903	7590	08/19/2004	EXAMINER	
COOLEY GODWARD LLP ATTN: PATENT GROUP 11951 FREEDOM DRIVE, SUITE 1700 ONE FREEDOM SQUARE- RESTON TOWN CENTER RESTON, VA 20190-5061			CHRISTMAN, KATHLEEN M	
			ART UNIT	PAPER NUMBER
			3713	
DATE MAILED: 08/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

*Re: to Final OA*  
**ENTERED**  
**DUE: 19 OCT 2004**  
**EOL: 19 FEB 2005**

*F:6 Appeal*  
**ENTERED**  
**DUE: 19 NOV 2004**  
**EOL: 19 FEB 2005**

**RECEIVED**

AUG 20 2004

**COOLEY GODWARD LLP**

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/944,676	BURGIN ET AL.
	Examiner	Art Unit
	Kathleen M Christman	3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 05/13/2004.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 24-44 is/are pending in the application.
- 4a) Of the above claim(s) 24-30 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 31-44 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a)  All    b)  Some \* c)  None of:  
 1.  Certified copies of the priority documents have been received.  
 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 08/14/2003.
- 4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

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**DETAILED ACTION**

In response to the election filed 05/13/2004; claims 24-44 are pending.

***Election/Restrictions***

1. Applicant's election of Invention II in the reply filed on 05/13/2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). As such claims 24-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. This restriction requirement is deemed proper and hereby made FINAL.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 36-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 36, the limitation of "the content frame originates from a first domain and the automated support frame originates from a second domain" is not support by the original specification. Similarly the limitation of "a first frame originating from a first domain" and a "second frame originating from a second domain" in claim 37 is not support. The specification fails to teach that the frames may originate from different domains. There is

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no mention of domains in the specification. Claims 38-44 are rejected for their incorporation of one or more of the above-through their dependencies.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 31-36, 43 and 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 31, the claim generally recites a method. The limitation "data that was collected from the user in the automated help session" lacks an action. As such the limitation does not recite an actually method step and it is unclear what functionality the step is supposed to perform. Additionally the limitation "receiving automated help session initiating a live help session" is unclear. It appears that some sort of data or instruction is supposed to be received from the automated help session but this is not set forth by the limitation. Claims 31-36 are rejected for their incorporation of the above through their dependencies. Regarding claims 43 and 44, the limitation "the live help session" lacks antecedent basis. A live help session is not created in claim 37 (the claim from which these depend). However, a live help session created in claim 38. For purposes of examination the examiner has treated these claims as being dependent upon claim 38.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 37, 39, 40 and 42, as best understood, is rejected under 35 U.S.C. 102(e) as being anticipated by Brandt et al (US 2002/0130895 A1). Brandt teaches a method for providing help/support information to user including the steps of: passing a navigation event (the help signal paragraph 29) from a first frame (web page) originating from a first domain (the web file) to a second frame (the help window, paragraph 13) originating from a second domain (the instructions in the computer memory), see paragraphs 36 and 37; determining the present navigation location within the first frame using the navigation event and initiating an automated help session in the second frame, the automated help session corresponding to the determined present navigation location (paragraph 31). Collecting data from the first frame that was collect from the user in the first frame and passing the received information to the second frame (claims 39 and 42) is shown in the tracking of the user actions in the web page, see paragraph 45. The web page of Brandt is by definition a content frame, as per claim 40.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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5. Claims 31-36, 38, 41 and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt et al (US 2002/0130895 A1) in view of Jawahar et al (US 6256620 B1). Regarding claim 31, Brandt et al teaches a method for providing support to a user including the steps of: passing a navigation event (the help signal paragraph 29) from a content frame (web page) to an automated support frame (the help window, paragraph 13); initiating an automated support session in the automated support frame, the automated help session corresponding to the navigation event (paragraph 31). Collecting content frame data that was collect from the user in the content frame and passing the received information to the automated help session (claim 32) is shown in the tracking of the user actions in the web page, see paragraph 45. Regarding claim 36, the content frame originating from a first domain (the web file) and the automated support frame originating from a second domain (the instructions in the computer memory), see paragraphs 36 and 37.

Brandt et al fails to teach receiving an initiation request for a live help session and passing the data from the automated help session to the live help session (claims 31 and 38); collecting content frame data from the user in the content frame and passing the content frame data to the live help session (claims 33 and 44); passing a command from the automated support session to the content frame (claims 34 and 41); passing the automate help session data to the content frame (claims 35 and 41); receiving data that was collected in the live help session and passing the data to the first frame (claim 43); and receiving data collected from the user in the second frame and passing the data to the live help session (claim 44).

Jawahar et al teaches an online system for providing live support to a end-user. The system teaches collecting all interaction of a user on a web page (first frame, content frame) and passing this information to the live support session in at least col. 12: 65 - col. 1 '3. These features are substantially similar to the data collection and passing steps not taught by Brandt. The ability for the help session to send information to the user's computer, i.e. passing information from the help session to the content frame, is shown in col. 7: 37-40. The Jawahar et al system monitors all user interactions, which in the combination of the inventions, includes those interactions made with the automated help system of Brandt

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et al. It would have been obvious to one of ordinary skill in the art to implement the live help session features of Jawahar et al with the automated help system of Brandt et al so as to implement a convenient means for a user encountering difficulties with a web page may contact a live representative to gain assistance (Jawahar et al, background).

#### ***Response to Arguments***

6. Applicant's arguments filed 08/22/2003 with respect to claims 31-44 have been considered but are moot in view of the new ground(s) of rejection.

**Examiner note on claim interpretation:**

The examiner notes that claims 31 and 37 have been interpreted using a correlation of the "first frame" and "second frame" of claim 37 to the "content frame" and "automated support frame", respectively, of claim 31. This correlation is used throughout the rejection.

#### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kathleen M. Christman

JOHN M. HOTALING, II  
PRIMARY EXAMINER



<b>Notice of References Cited</b>		Application/Control Number 09/944,676	Applicant(s)/Patent Under Reexamination BURGIN ET AL.	
		Examiner Kathleen M Christman	Art Unit 3713	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
A	US-6,259,445	07-2001	Hennum et al.	345/709
B	US-6,434,619	08-2002	Lim et al.	709/229
C	US-6,256,620	07-2001	Jawahar et al.	345/705
D	US-2002/0130895	09-2002	Brandt et al.	345/708
E	US-			
F	US-			
G	US-			
H	US-			
I	US-			
J	US-			
K	US-			
L	US-			
M	US-			

**FOREIGN PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N					
O					
P					
Q					
R					
S					
T					

**NON-PATENT DOCUMENTS**

*	Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
U	
V	
W	
X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

300211-2006



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,676	08/31/2001	Daniel Keele Burgin	FINL-005/000US	8505

22903 7590 05/14/2003

COOLEY GODWARD LLP  
 ATTN: PATENT GROUP  
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 RESTON, VA 20190-5061

EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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MAY 19 2003

Entered 14 AY 03  
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 EoI: 14 NO 03  
 COOLEY GODWARD LLP

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MAY 21 2003

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/944,676	BURGIN ET AL.
	Examiner	Art Unit
	Kathleen M Christman	3713

*— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —*  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2-5</u> .	6) <input type="checkbox"/> Other: _____

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**DETAILED ACTION*****Information Disclosure Statement***

1. The information disclosure statement filed 11/08/2001 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. There is no copy of the reference Brader, 1994, Authoring-Systems Software for Computer-Based Training (Educational Technology Publications, New Jersey) pp. 45-60, referenced on page 2 of the IDS. The IDS submitted 11/09/2001(entered as paper no. 3) appears to be a copy of the IDS filed 11/08/2001 (entered as paper no. 2) and has not been considered for this reason.

***Specification***

2. The use of the trademarks Sun MicroSystems, Microsoft and Linux has been noted in this application. They should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

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Misnumbered claims 18-24 have been renumbered as claims 17-23 respectively. The dependencies of these claims have also been updated.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 7-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification as originally filed in no manner describes a primary end-user support system, a communication module, a support knowledge database (all in claim 7), a secondary end-user support system (claim 8), a primary storage device connected to the primary end-user support system (claim 9), an end-user frustration indicator, a support failure calculator (claim 10). There is no teaching as the function, structural arrangement, or use of any of these components in the specification. There is no teaching which would enable one of ordinary skill in the art to make and use the claimed invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "a navigation location" in claims 1, 17, and 23 is indefinite. The term is not defined by the claim. The limitations "a page" and "the page" in claims 7, 8 are indefinite. It is unclear as to what type of "page" the claim refers. The phrase is not defined by the claim. Further, claim 5 recites the limitation "wherein

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referring the end-user to the secondary support session". There is insufficient antecedent basis for this limitation in the claim.

Claims 2-4, 6, 9-16, and 18-22 are rejected for their incorporation of one or more of the above through their dependencies.

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1-5, 17-21 and 23, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Richard et al (US 6162080) in view of Siefert US (5810805). Richard et al teaches a system and method for providing automated help (support) to a user including the steps of; receiving a request for end-user support from an end-user; determining a navigation location for the end-user; providing an automated support session corresponding to the navigation location (claims 1, 17 and 23), see col. 9: 1-5. Regarding claim 7, a processor, and a storage device connected to a processor is shown in col. 3: 55-60.

Richard et al fails to specifically teach retrieving a user profile associated with the end-user; recording an automated support data item in the user profile, wherein the automated support data item is related to the automated support session (claims 1, 17, and 23); receiving a second request for end-user

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support from the end-user; providing a second automated support session, wherein the second automated support session accounts for the recorded support data item (claims 2 and 18); determining an effectiveness level for the automated support session, and responsive to the effectiveness level being below a threshold, recording the automated support data item in association with an automated support failure indicator (claims 3 and 19); responsive to the effectiveness level being below a threshold, referring the end-user to a secondary support session (claims 4 and 20); and the secondary support session being referring the end-user to a live support session (claims 5 and 21).

Siefert teaches each of these components. The user profile is taught at col. 7: 11+. The second request for training and its various attributes are taught in Figure 4. The assessment of the student and the results of the assessment being below a predetermined threshold is taught in Figures 2 and 4. The "live support session" corresponds to the subject matter expert of Siefert.

Although Richard et al teaches a system that incorporates an expert system, the specific functionality of the expert system is not taught. It would have been obvious to one of ordinary skill in the art to seek outside sources. Thus the incorporation of the Intelligent Agent of Siefert within the Richard et al system would have been obvious to one of ordinary skill in the art at the time the invention was made.

11. Claims 6 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richard et al (US 6162060) in view of Siefert US (5810605) as applied to claim 1 above, and further in view of Cook et al (US 5727950). Neither Richard et al nor Siefert teach, "selecting a personae from a plurality of personae for interacting with the end-user, wherein the personae is selected in response to the user profile". Cook et al clearly teaches this limitation at col. 10: 50+. It would have been obvious to one of ordinary skill in the art to incorporate the agent system of Cook et al into the systems of Siefert and Richard et al so as to better instruct, motivate, engage and guide the user of the system, as taught by Cook et al, see col. 6: 1-5.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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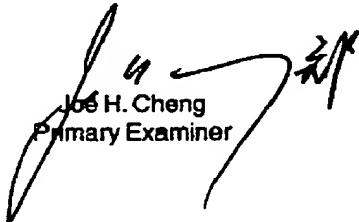
- a. Tucciarone et al (US 2003/0009385 A1) teaches a system and method for providing an on-request service
- b. Martin (US 2002/0174106 A1) teaches a networked education system including the use of an agent
- c. Himmel et al (US 2002/0119435 A1) teaches a networked system including the distribution of electronic courses
- d. Headrick et al (US 6557006 B1) teaches an online interactive electronic system where a user may request more information on a particular item

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Kathleen M. Christman  
May 8, 2003

  
Joe H. Cheng  
Primary Examiner

<b>Notice of References Cited</b>	Application/Control No.	Applicant(s)/Patent Under Reexamination	
	09/944,676	BURGIN ET AL.	
	Examiner	Art Unit	Page 1 of 1
	Kathleen M Christman	3713	

**U.S. PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
A	US-6,162,060	12-2000	Richard et al.	434/118
B	US-6,810,605	09-1998	Siefert, David M.	434/362
C	US-2003/0009385 A1	01-2003	Tucciarone et al	705/26
D	US-2002/0174106 A1	11-2002	Martin, Frederic P.	707/3
E	US-2002/0119435 A1	08-2002	Himmel et al.	434/350
F	US-6,557,006 B1	04-2003	Headrick et al.	707/104.1
G	US-			
H	US-			
I	US-			
J	US-			
K	US-			
L	US-			
M	US-			

**FOREIGN PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N					
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P					
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T					

**NON-PATENT DOCUMENTS**

*	Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages
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Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.